

LOWELL DECL. EX. 118

From: [Lowell, Abbe](#)
To: [Berger, Mitchell](#); [Baloul, Gassan A.](#)
Cc: [Arguello, Sofia](#); [Kolansky, David A.](#); [Langford, Joy](#); [M Haller](#); [Stephen M. Sinaiko](#); [Ronald F. Wick](#)
Subject: RE: Shatsky, et al. v. The Palestine Liberation Org., Case No. 18 Civ. 12355 (SDNY)
Date: Friday, April 23, 2021 4:49:07 PM
Attachments: [Feb 12, 2021 Correspondence re Experts.pdf](#)
[2020-10-16 Doc 52-1 Declaration of Arie Dan Spitzen with Exhibit.pdf](#)
[2020-09-15 Doc 50-1 Declaration of Itzhak Ilan with Exhibit.pdf](#)
[image001.jpg](#)

Dear Mitch,

As our colleagues at Cohen & Gresser previously disclosed to you via email on February 12, 2021 (see attached), plaintiffs are planning on using Messrs. Spitzen, Levitt and Shaked to present evidence under Fed. R. Evid. 702, 703, and/or 705 at summary judgment and/or trial. The expected testimony of these individuals falls squarely within the scope of their reports in *Shatsky I*. Plaintiffs previously offered to re-produce the *Shatsky I* reports in this case if you were unable to access any of the previously produced reports, but received no answer. We repeat that offer here.

Mr. Spitzen will also be providing foundational testimony supporting the independent admissibility of the ISA Report referenced in the First Amended and Supplemental Complaint and of other items of evidence (similar to that provided by him in the attached declaration submitted in the *Shatsky v. Syria* matter).

Mr. Guez's declaration will also provide foundational testimony supporting the independent admissibility of the ISA Report. Mr. Guez's declaration will be similar to the attached declaration on this topic provided by the late Itzhak Ilan in the *Shatsky v. Syria* action. Please advise whether you would like to receive a copy of Mr. Guez's declaration in advance of summary judgment briefing.

As to the new Plaintiffs, Efrat Trattner, Hadassa Diner and Yael Hillman, these individuals will not be testifying as to liability in this action. We disagree with your claim that "their claims are entirely derivative of those of other Plaintiffs," but will address that point at the appropriate juncture.

Please now let us know if you have any objections to the above.

Best regards,

Abbe

Abbe David Lowell

Partner

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From: Berger, Mitchell <mitchell.berger@squirepb.com>

Sent: Monday, April 19, 2021 5:30 PM

To: Lowell, Abbe <ADLowell@winston.com>; Baloul, Gassan A. <gassan.baloul@squirepb.com>

Cc: Arguello, Sofia <SArguello@winston.com>; Kolansky, David A. <DKolansky@winston.com>; Langford, Joy <joy.langford@nortonrosefulbright.com>; M Haller <hallermm@gmail.com>; Stephen M. Sinaiko <SSinaiko@cohengresser.com>; Ronald F. Wick <RWick@cohengresser.com>

Subject: RE: Shatsky, et al. v. The Palestine Liberation Org., Case No. 18 Civ. 12355 (SDNY)

Dear Abbe,

We have yet not seen your appearance entered in this action, but we assume your April 16 email speaks authoritatively for Plaintiffs.

Given the scant information provided in your email, Defendants necessarily object to Plaintiffs' proposed use, on summary judgment or at trial, of unspecified and undisclosed testimony from Arie Dan Spitz, Matthew Levitt, Ronni Shaked, and/or Nimrod Guez. Your email leaves many important questions unanswered. Is the proposed testimony of Messrs. Spitz, Levitt, and Shaked the same as that proffered in their expert reports in the predecessor (*Shatsky I*) lawsuit, which Judge Leon excluded? If it is different, have they prepared expert reports, and will Plaintiffs disclose those reports now to Defendants? On what subjects do Plaintiffs propose to proffer expert testimony from Mr. Guez, is there an expert report from him, and will Plaintiffs disclose his report now to Defendants? Pending receipt of your answers to these questions, Defendants object to, and reserve all rights to move to strike, proposed testimony from these four individuals.

As to the new Plaintiffs—Efrat Trattner, Hadassa Diner, and Yael Hillman—please let us know if these individuals purport to have information relevant to liability and, if so, what that information is. Pending receipt of your answer, and assuming that they do not have information relevant to liability, Defendants object to, and reserve all rights to move to strike their proposed testimony concerning their alleged damages, should that ever become necessary, because their claims are entirely derivative of those of other Plaintiffs.

Regards,

Mitch

Mitchell R. Berger

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From: Lowell, Abbe <ADLowell@winston.com>

Sent: Friday, April 16, 2021 11:15 AM

To: Berger, Mitchell <mitchell.berger@squirepb.com>; Baloul, Gassan A. <gassan.baloul@squirepb.com>

Cc: Arguello, Sofia <SArguello@winston.com>; Kolansky, David A. <DKolansky@winston.com>; Langford, Joy <joy.langford@nortonrosefulbright.com>; M Haller <hallermmm@gmail.com>; Stephen M. Sinaiko <SSinaiko@cohengresser.com>; Ronald F. Wick <RWick@cohengresser.com>

Subject: [EXT] Shatsky, et al. v. The Palestine Liberation Org., Case No. 18 Civ. 12355 (SDNY)

Messrs. Berger and Baloul,

As we have in the past in other matters, we are representing Plaintiffs in the above-captioned litigation. We write to advise you that Plaintiffs may use the testimony of Messrs. Nimrod Guez, Arie Dan Spitzen, Matthew Levitt, and Ronni Shaked at trial and/or summary judgment in this action to present evidence for liability and/or admissibility purposes. Plaintiffs Efrat Trattner, Hadassa Diner, and Yael Hillman will provide testimony and evidence in this action regarding their own injuries resulting from the February 16, 2002 bombing.

Please let us know if you have any objections to the above.

Best regards,

Abbe

Abbe David Lowell

Partner

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